

any suit, in the nature of a writ of *ad quod damnum*, or any other proceedings, shall not hinder or delay the progress of the work."

This section, it is said, not only relieves the company from any obligation to pay, during the pendency of proceedings instituted to condemn the land, but it is insisted, the pendency of any other proceeding, such as the present for instance, is a sufficient answer to the demand of payment. In this construction of the section, I do not concur. It appears to be manifest, that the legislature had in view, proceedings instituted to condemn the land, and not any litigation, which might arise between the parties, with reference to the payment, or to enforce payment of the money, after the condemnation should be complete.

The legislature saw, that unless this power was given, the work might be delayed by spinning out the proceedings connected with the condemnation, and before the valuation could be determined, and of course before it could be paid, and the law, therefore, provides, that pending the proceedings necessary to ascertain the valuation, the progress of the work should not be arrested. The construction contended for, by the defendant, would delay the payment of the money so long as any litigation between the parties having any connection with it, could be kept on foot, though all the proceedings necessary to the condemnation should be finally concluded. If any doubt could be entertained, with regard to the construction, which, I think, should be given to this section, it would, in my opinion, be removed by the latter clause of it, which directs the courts to give precedence to controversies between the company, and the proprietors of lands sought to be condemned for public uses. This direction indicates, not only the parties to whose controversies precedence is to be given by the courts, but the subject of such controversies. They must be between the company on the one hand, and the proprietors of lands on the other, which lands the company is seeking to condemn. But to say, that after the condemnation is complete, and the amount to be paid is ascertained, any proceeding instituted by the proprietor